

**DRAFT**

**Please note that all referenced attachments, comprising 29 pages, are on file with the Copake Town Clerk and in the Planning Board office. An annotated listing of those attachments appears at the end of this document.**

**COPAKE PLANNING BOARD  
MINUTES of June 5, 2008**

A regular meeting of the Copake Planning Board was called to order at 7:00 p.m. by Marcia Becker, Chair. Also present were Chris Grant, Jon Urban, Gray Davis, Skip Pilch, George Filipovits and John Brusie. Planning Board Attorney Lawrence Howard and Town Litigating Attorney Carl Whitbeck also attended. Paulette Bonanno served as secretary of the meeting in order to record the minutes.

Ms. Becker introduced the Board's fifth member, Skip Pilch, and two new Board members, George Filipovits and John Brusie. She advised that the two new Board members cannot take part in consideration of matters before the Board at the time of their appointment. She also advised that Linda Gabaccia is the Planning Board's liaison to the Town Board and that all matters relating to the Planning Board are to go through her to the Board.

**ZONING BOARD OF APPEALS – Referrals**

None.

**PUBLIC HEARING**

**2008-10 Frank and Marcia Ann Peteroy – Minor Subdivision – Route 22,  
Copake Falls - New**

On a motion made by Mr. Grant and seconded by Mr. Davis, the Board voted unanimously to waive the reading of the public notice. Ms. Becker asked if anyone present wished to speak to this matter. There being no one, on a motion made by Mr. Grant and seconded by Mr. Filipovits, the Board voted unanimously to close the public hearing.

The minutes of the May 1, 2008, concerning this application were read, and the Board asked to see the new survey showing the five original parcels. The Peteroys objected to producing another survey that would reflect the five original parcels that were merged in 1926. It was determined that the Peteroy deed documents that the parcels were merged at that time and that now the applicant was asking for subdivision into two parcels. The abutter's list is included on the application. It was noted that the Board had asked to see the five original parcels on the survey because it had understood that the property consisted of five separate tax lots, which is not the case. The Peteroys have one tax lot and are asking for subdivision into two parcels.

The SEQR form was completed and executed. On a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to grant a negative declaration.

On a motion made by Mr. Brusie and seconded by Mr. Pilch, the Board voted unanimously to approve the Minor Subdivision of the lands of Marcia Ann Peteroy and Frank Peteroy pursuant to the map prepared by Lynden Chase dated December 26, 2007. The Board requested two additional copies of the map, which were provided by Mr. Peteroy by the end of the meeting.

## **SUBDIVISION/SITE PLAN**

### **2007-02 SITE PLAN REVIEW – Copake Valley Farm - 13 Lackawanna Properties LLC– Salvatore Cascino**

Court Reporter Roberta Schmitt, retained by Copake Valley Farms, appeared to record the applicant's proceedings. Anna Kirschner appeared and clarified that she is the attorney for the Planning Board application and building permits. Dennis Schlenker, who represents the applicant in litigation between the Town and the applicant and his various entities, also appeared.

Ms. Kirschner then spoke at length about being a native and about her farming background.

She advised that she seeks a working compromise with the Town. She needs clarification of what has been submitted and what is needed to be submitted in order to determine what is workable under Town law and Ag & Markets law.

After questioning by the Board, Ms. Kirschner clarified that Copake Valley Farms conducts operating activities on the farm, 13 Lackawanna Properties, LLC, is the owner and Salvatore Casino is the sole owner of both. She explained that it is customary to separate ownership in this manner to reduce liability. She advised that the three separate names are not an intended camouflage or ruse but a legal structure and that no one is trying to hide things. Attorney Howard then noted that the naming of the entities is not up to the Planning Board.

Ms. Kirschner stated that a Casino employee had completed the four applications before the Board and could have been more accurate in what was presented. Ms. Kirschner will use all three names on the applications, and that they can be used interchangeability.

Attorney Whitbeck then advised that the Town does not take a position on who the applicant is; rather, the Planning Board and the Town want to know what he is applying for. Jon Urban requested that one entity be designated.

Ms. Kirschner responded that Copake Valley Farm is the applicant, that she would like to proceed with the four applications, and that she wished to ascertain what can be done with the permits and then try to move forward. She outlined the requests:

1. 8,000 sf addition to an existing barn needed for hay storage and leaf grinding; she stated that the photos provided indicate that there is a hay crop that needs to be harvested this year and stored promptly.
2. corn dryer and grain silo system; the cover crop is wheat and barley with grass hay below; she stated that storage is needed for this.

3. two buildings to house cattle yet to come onto the property
4. multi-use shed to store hay crop and farm equipment – separate facilities to isolate each.

She spoke of the 45,000 sf cattle barn and the question of a cattle or commercial barn. The Town has a 25,000 sf limit per barn. This is not what Mr. Casino wants but he will seek a reasonable solution with the Town. She stated that he has a right to build under Ag & Markets with the reasonable approval of the Town; he has no need for liquid feed lots and chemical applications and prefers composting vegetable matter.

She noted what was submitted: A long form EAF; soil information; a complete survey map with two foot topographicals that shows the location of the barn, corn dryer shed, and 8,000 sf extension; the wetland delineation was re-done since first done in 1998, and the maps have been redone; the submission shows where the hay crops are now planted and the pastures. She understands that wetlands can be used for planting and pasture as long as fill is not added. Very little composting was added; the photos show different growth with and without composting. This is Mr. Casino's demonstration that he is farming. She stated that the farm is located in CC District 1 and is under Ag & Markets law and protection; Ag & Markets laws and Town law are not the same.

She advised that total acreage is 298, less 100 acres of wetlands, yields 175/180 acres of tillable land. Mr. Casino got rid of the shale knob and depressions to maximize farming. The dryer is for high moisture corn so that it can be stored in silos.

Ms. Becker then noted the Town's 25,000 sf limit and that Mr. Davis had completed an analysis of the building size. He then reviewed the drawings submitted and, based on rough calculations, provided the following:

Building 1 – 45,000 sf proposed cattle barn, not allowed in Town zoning – no drawing provided.

Building 2 – grain/corn dryer plus storage silos 110 feet tall.

Ms. Kirschner advised that standard silos are built in the Mid-West to a standard size; modifications for visual impact can include building part underground or custom build, considered too costly.

Mr. Pilch noted that he has seen 50 foot high silos. Ms. Kirschner noted that a 35 foot height limit is too low and that a compromise is needed.

Attorney Whitbeck noted that there is a 100 foot height limit outside of the Scenic Corridor Overlay Zone (SCOZ) and that the site is within the SCOZ.

Ms. Kirschner said Ag & Markets is willing to work with the Town and can provide guidance and support.

Mr. Grant noted that this is a Type 2 SEQR and questioned why the EAF was submitted if agricultural use is not subject to SEQR. Mr. Whitbeck responded that the EAF was submitted because he had asked for it with the goal of getting it approved.

Ms. Kirschner noted that she had sent Ms. Becker the Ag & Markets guidelines, that she was seeking site plan review and approval of the building plans, and that site plan review is expected within 45 days on a reasonably expedited basis. She commented that the Town cannot ask for such in-depth site plan review materials such as two foot gradation maps but they were submitted because they applicant had them.

Building 3 – a 14,500 sf open cow shed; Mr. Davis noted that he calculated base on the shop drawings submitted.

Building 4 – expansion of the existing barn for composting machines was identified as 8,000 sf but is actually 15,000 sf.

Ms. Kirschner stated that she had not calculated and reviewed what Mr. Casino had submitted.

Mr. Davis then noted the scale of the proposals: that 45,000 sf is an acre size building and that an indoor riding area is 24,000 sf. He noted a 110 foot tall silo is a 12 story building.

Mr. Urban added that he had seen a number of applications with a variety of building names. He told the applicant to return with correct maps; the maps provided are not accurate; the drawings are not accurate. He stated that when the Board has the correct information, then the review process can begin.

Mr. Davis further noted that the numbers on the application permit do not match the binder submitted to the Planning Board. He noted that there were big discrepancies—the items were incorrect and inaccurate. He said this puts the onus on the Planning Board to catch errors rather than on correct information being provided.

Attorney Schlenker said that the group is talking about use and process. He wished to state for the record that this is agriculture use and not a request for special use—that this is a constitutional issue under New York State. Concerning the issue of entities, Copake Valley Farm and 13 Lackawanna Properties LLC are limited liability corporations. He said there was no issue of this being a farming application, but an issue of delays. He requested a letter advising of the conditions required by the Board.

Mr. Urban noted that some issues raised were not raised before because multiple names were out of the norm and confusing to the Board. Mr. Howard then promised a letter that would outline the issues including names, building area and height.

Ms. Kirschner commented that the litigation will not stop the approval process. Attorney Howard noted that the litigation creates fear for volunteer Board members. Mr. Whitbeck then referred to the map, stated that these issues had been raised several times before the Board and that Mr. Casino must describe accurately what he is applying for—that this is a concern to the Town. He then referred to the February 8, 2008, map, which conflicts with the current submission.

Attorney Whitbeck reminded the group that the usage of existing structures on the site plan must comply with Town Code, i.e., illegal structures on the site plan cannot be included for approval. Current usage does not comply with Code.

Attorney Howard recommended one site plan review application for the one property; all the buildings should be to scale and put on one accurate map with reference to the structures and the names of the drawings appearing in the book; all information must conform.

It was agreed that Attorneys Howard and Kirschner would be the contacts between the Town and the applicant.

**2008-11          MINOR SUBDIVISION/BLA –Railroad Lane off Route 23 – Craryville –  
Richard Pugliese – New**

Richard Pugliese appeared requesting the merger of two parcels and showed his original survey and a revised one reflecting the proposed boundary line adjustment. A .739 acre piece is being subdivided off the remaining lands of the four heirs of Albert Pugliese and is to be merged with a 9.5076 parcel (appears to result from two previously combined parcels of 9.3188 acres and .1888 acres). This would result in a new 10.2456 acre parcel.

Attorney Howard advised that a letter from the other three heirs should be submitted acknowledging that they are in agreement with this adjustment. While Mr. Pugliese expressed concern about delays in obtaining the consent, Attorney Howard advised that the Board had an obligation to obtain this information and, in any event, a public hearing was required.

The applicant was asked to submit the following:

1. documentation of ownership of the lots to be adjusted
2. letter from all of the owners agreeing to the minor subdivision/boundary line adjustment
3. covenants and deed restrictions
4. corrected map showing:
  - a) the adjustment being request
  - b) the abutting owners
  - c) improvements
  - d) zoning district
  - e) widths of existing road
  - f) driveway location
  - g) locater

On a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to accept as a preliminary sketch plan the survey prepared by R. Sardo Land Surveying Services, PLLC, dated May 26, 2008.

The public hearing will be scheduled for the next meeting.

**2007-35          MINOR SUBDIVISION/BLA – Pumpkin Hollow - Susan L. Hawkins**

Kevin Albright, who will be acquiring property from Susan L. Hawkins, appeared with Ira H. Halfond, Esq., who represented Ms. Hawkins. Approval of a boundary line adjustment was requested.

The new map was reviewed. It showed that all new utilities are to be underground, that the property is residential, the right of way through the Albright parcel, and that Parcel 2B is non-buildable and not a separate building lot.

The short SEQR form was completed and executed. On a motion made by Ms. Becker and seconded by Mr. Davis, the Board voted unanimously to make a negative declaration.

On a motion made by Mr. Grant and seconded by Mr. Davis, the Board voted unanimously to approve the Minor Subdivision dividing out Parcel 2B from the lands of Susan L. Hawkins and merging it with the lands of Kevin Albright pursuant to the survey prepared by Daniel J. Russel dated Revised May 14, 2008.

#### **2008-05      SITE PLAN REVIEW – 47 Chrysler Pond Road – John Baring**

Donald Pulfer, architect, represented the applicant. He advised that the old septic approval expired and that the DOH has approved the new system, which is in the same location but elongated; the paperwork was not yet available. He also noted the roof drainage system and that he would like to proceed with the driveway and underground electric. Therefore, he requests Planning Board approval subject to providing the DOH letter.

Ms. Becker reviewed the site plan checklist and the outstanding items from the March 6, 2008, meeting and determined that the plan meets the conditions except for the map locator. She reviewed the site plan submitted in March and noted that the grading and drainage plan was complete and that the size and description of the septic system had been provided. She questioned the placement on the plan of the functional culvert under the driveway entrance. Mr. Pulfer explained that this will be more easily viewed once the locator is included on the plan.

The short SEQR form was completed and executed. On a motion made by Mr. Davis and seconded by Mr. Grant, the Board voted unanimously to make a negative declaration.

On a motion made by Ms. Becker and seconded by Mr. Davis, the Board voted unanimously to conditionally approve the site plan for the John Baring House prepared by Donald Pulfer dated June 5, 2008, subject to receipt of the DOH approval letter and locator placement on the map.

#### **2008-02      MINOR SUBDIVISION – Overlook Road – Tilly Hill, Inc./Neil Costa**

This is an application to approve a four-lot minor subdivision on Overlook Road. Neil Costa appeared and provided a map dated May 22, 2008, showing a slight change in the roadway for a 20 foot easement for each lot. He will provide restrictive covenants and a common driveway agreement. In the voluntary restrictions he would limit the size of the homes, require earth-tone colors, provide no-cut zones and a 100 foot buffer on the boundaries. Lots 1, 2, and 3 will not be further subdivided; lot 4 could be divided only once in the future into two parcels and by a new owner; this will create two flag lots using a common driveway, acceptable by code. Attorney Howard noted that this further subdivision would have to meet Town zoning in place at that time.

Attorney Howard advised that only the DOH letter is required for the septic system. Since Mr. Costa could obtain subdivision approval prior to taking title to the land (the approval goes with the land—not the owner), a public hearing could be scheduled for the next meeting.

On a motion made by Mr. Davis and seconded by Mr. Urban, the Board voted unanimously to accept the preliminary sketch plan on North Overlook of Neil Costa, Tilly Hill, Inc., dated May 22, 2008, and prepared by

The public hearing will be scheduled for the next meeting. It was noted that an application form and \$50 fee had yet to be submitted. In addition, Mr. Costa indicated that he would provide a copy of the letter from Highway Superintendent Proper concerning the driveway.

**2008-09        MINOR SUBDIVISION/BLA – Taconic Shores – Seth and Rebecca Morrison**

Seth Morrison of 97 Island Drive appeared. He is seeking to merge Parcels 39, 40, 41 and 42/Lots 314, 315, 316 and 317 in the previously approved Major Subdivision of Taconic Shores in order to reduce his high real estate taxes. He has one deed to the four parcels. He also provided letters of no objection from his abutting neighbors. While he lacked a letter from the neighbor across the street, it was determined that neither this letter nor a public hearing was required.

Attorney Howard advised that the assessor could merge the lots without the assistance of the Planning Board and that, by right, lots can be merged by filing a new deed with the County. Because he already has a recorded deed covering all four parcels, he advised Mr. Morrison to re-record his deed with the County Clerk with a note on the deed asking to merge the tax lots.

On a motion made by Mr. Grant and seconded by Mr. Davis, the Board voted unanimously to approve the merger of Lots 314, 315, 316 and 317 of the lands of Seth Morrison and Rebecca Roberts located in Taconic Shores.

**MINUTES**

On a motion made by Ms. Becker and seconded by Mr. Grant, the Board voted unanimously to approve the Minutes of May 1, 2008, with the following changes:

- a) Page 3, last paragraph – Birch Hill Partners, LLC (2006-33), change to “Ms. Becker made a motion to accept the application of Birch Hill Partners, LLC, pursuant to the preliminary plat revised by Daniel J. Russell, PLS, dated April 1, 2008, with the following conditions...”
- b) Page 4 – Copake Lake Golf LLC (2007-23), last line of first paragraph, delete “(????)”.

**ADMINISTRATIVE**

Conservation Easements - Attorney Howard reported that he had met with the Columbia Land Conservancy (CLC) to discuss Birch Hill Partners and whether it would consider holding the conservation easement. The response was that the current layout is not suitable from its prospective and it would be up to the applicant to agree to make changes.

The Conservancy would like to be involved earlier, and the Town could invite it to do so. Three options were discussed:

1. CLC accept the easement.
2. The Town and CLC co-hold the easement, which would help educate the Town about the program and at no cost to the Town.
3. Decline the easement.

Attorney Howard suggested forwarding the next application for a conservation easement to CLC for review and input.

Zoning Map – A motion was made by Mr. Brusie and seconded by Mr. Urban to ask the Town Board to accept the newly printed zoning map prepared by Clark Engineering as the official zoning map. The Clark map attempts to be the same map as that in the Code book, which is not legible. The motion was not carried. The group felt there was a need for further research on the best map to be recommended to the Town Board. Gray Davis offered to enhance the Building’s Inspector’s map, which was better than the one in the Code Book and compare it to the Clark map.

Board Positions and Duties – Ms. Becker advised that the Board needs to establish officers to assist the Chair. Vice-Chair Chris Grant assumes Chair duties in her absence. A Secretary is needed for the stamping of maps in the Chair’s absence. There was some discussion of whether the Treasurer would assume duties of managing the escrows and performance bonds. As the proposed Treasurer, Mr. Urban felt that the Planning Office should continue to handle this duty. On a motion made by Mr. Brusie and seconded by Mr. Filipovits, the Board voted unanimously to appoint Gray Davis as Secretary and Jon Urban as Treasurer.

Comprehensive Planning Committee (CPC) - New York State law requires that the CPC must have a Planning Board representative. On a motion made by Mr. Brusie and seconded by Mr. Filipovits, the Board voted unanimously to appoint Skip Pilch to the CPC.

Office Staffing – Ms. Becker asked whether Board members would volunteer to spend time in the office on Wednesdays and Saturdays. After discussion it was decided that office hours were not necessary. Ms. Becker and the Administrative Assistant will most often be in the office on Wednesday from 10 to noon. Staffing on Saturdays will not be required; however, Mr. Pilch generally plans on being in the office. Applicant appointments with Board members will be encouraged.

## **CARRY OVER**

The following matters were carried over to the next meeting:

**2005-18      SITE PLAN REVIEW AND MAJOR SUBDIVISION - Approximately 112 +/- Acres on Land Bounded by Mountain View Road and County Route 7A - Housing Resources of Columbia County, Inc.**

**2006-33      MAJOR SUBDIVISION – Birch Hill Road – Birch Hill Partners, LLC**

- 2006-36 MAJOR SUBDIVISION - Birch Hill Road (Stone Gate at Copake Lake) –  
Catmast Development Corp.**
- 2007-11 MAJOR SUBDIVISION – FLS – Farm Road – Karen B. Cohen**
- 2008-07 SITE PLAN REVIEW - CATAMOUNT DEVELOPMENT CORP. –  
State Route 23**

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:20 p.m.

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Marcia Becker, Chair

**Please note that all referenced attachments, comprising 29 pages, are on file with the Copake Town Clerk and in the Planning Board office. The referenced attachments are filed in the individual project files. An annotated listing follows:**

13 Lackawanna Properties, LLC

May 20, 2008           Kirschner to CPB

Tilly Hill, Inc.

May 23, 2008           Costa to CPB

Catmast Development Corp. (Stone Gate)

May 6, 2008           Schmitt to Clark

Birch Hill Partners, LLC

May 8, 2008           Becker to Spampinato  
May 6, 2008           Prendergast to Dominitz  
May 1, 2008           Spampinato to Becker  
April 30, 2008         Higgins to Prendergast

Catamount Development Corp.

April 29, 2008         Salsman to Becker  
March 29, 2008 (est.) Salsman to Crowley

Administrative

June 2, 2008           Becker to Tiemann  
May 27, 2008           Wilson to Becker  
May 24, 2008           Becker to Wilson  
May 24, 2008           Becker to Wilson  
May 22, 2008           Becker to Friends of Copake  
May 5, 2008           Becker to O'Neill  
May 5, 2008           Wilson to Becker  
May 21, 2008         CPB to e-mail mail recipients  
May 5, 2008           Shadic to Berkshire Hills  
May 5, 2008           Shadic to Etra  
2008                    NYS Association of Towns  
June 11, 2008         Audubon International